

AMENDED IN ASSEMBLY AUGUST 6, 2013

AMENDED IN SENATE MAY 15, 2013

AMENDED IN SENATE MAY 6, 2013

AMENDED IN SENATE APRIL 23, 2013

AMENDED IN SENATE APRIL 17, 2013

AMENDED IN SENATE FEBRUARY 25, 2013

SENATE BILL

No. 2

Introduced by Senators Lieu and Yee

December 3, 2012

An act to amend Sections 84107, 84305.5, 84510, ~~85701~~, 85704, ~~90003~~, 91000, 91005, ~~91005.5~~, and ~~91013~~ and 91005.5 of, and to add Section 84503.5 to, the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

SB 2, as amended, Lieu. Political Reform Act of 1974.

(1) Existing law, the Political Reform Act of 1974, provides for the comprehensive regulation of campaign financing, including requiring the reporting of campaign contributions and expenditures and imposing other reporting and recordkeeping requirements on campaign committees. The act also imposes administrative, civil, and criminal fines and penalties for violations of its provisions.

This bill would increase certain administrative, civil, and criminal fines and penalties imposed by the act, as specified.

(2) The act also regulates advertisements, which are defined as any general or public advertisement that is authorized and paid for by a

person or committee for the purpose of supporting or opposing a candidate for elective office or a ballot measure or ballot measures. The act places certain disclosure requirements on advertisements. In addition to other penalties imposed by the act, a fine of up to triple the amount of the cost of an advertisement can be imposed on a person who violates the disclosure requirements for advertisements.

This bill would require that television, video, or audio broadcast advertisements supporting or opposing a candidate or soliciting contributions in support of that purpose that are authorized by a candidate include a specified disclosure statement made by the candidate.

The bill would increase the maximum penalty for a violation of these provisions to 6 times the amount of the costs of the advertisement.

(3) The act regulates mass mailings, known as slate mailers, that support or oppose multiple candidates or ballot measures for an election. The act requires that each slate mailer identify the slate mailer organization or committee primarily formed to support or oppose one or more ballot measures that is sending the slate mailer, and to contain other specified information in specified formatting. The act requires that each candidate and each ballot measure that has paid to appear in the slate mailer be designated by an asterisk.

This bill would additionally require that a candidate or ballot measure appearing in the slate mailer as a result of a payment made by a 3rd party be designated by an “@,” and would require the notice to voters included on a slate mailer be revised to describe this new requirement. The bill would require that a slate mailer that is produced in a language other than English provide the notice to voters in that same language. The bill would require that a slate mailer provide the notice in both English and another language if a substantial portion of a slate mailer is produced in the other language.

(4) The act requires a ballot measure committee, within 30 days of designating the numerical order of propositions appearing on the ballot, to identify itself as committee for or against that numbered proposition in all required references.

This bill would reduce the amount of time in which a ballot measure committee must reference itself as a committee for or against a numbered proposition to within 10 days of designating the numerical order of propositions.

~~(5) The act is administered and enforced by the Fair Political Practices Commission. The act authorizes the Commission to perform~~

~~discretionary investigations and audits with respect to campaign and lobbying reports and statements that are filed with the Secretary of State. The act also authorizes any person residing in the jurisdiction to sue for injunctive relief to prevent violations or compel compliance with the act.~~

~~This bill would specify that the Commission may perform audits prior to the date of the election and prior to the date that a statement or report is required to be filed. The bill would authorize a person to challenge an audit by the Commission or any order resulting from an audit by seeking a writ of mandate, which would take priority over all other civil matters. The bill would specify that the Commission is authorized to seek an injunction to prevent a violation of or compel compliance with the act.~~

~~(6)~~

~~(5) The act makes a knowing or willful violation of its provisions a misdemeanor and subjects offenders to criminal penalties.~~

~~By expanding the scope of an existing crime, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~(7)~~

~~(6) The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes upon a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.~~

~~This bill would declare that it furthers the purposes of the act.~~

~~Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.~~

~~State-mandated local program: yes.~~

The people of the State of California do enact as follows:

1 ~~SECTION 1. (a) The Legislature finds and declares all of the~~
2 ~~following:~~

3 ~~(1) The schedule by which elected officers, candidates,~~
4 ~~committees, and slate mailer organizations are required to file~~
5 ~~campaign statements should serve the goals of increased~~
6 ~~transparency and simplified campaign disclosure requirements.~~

~~(2) The public benefits from transparency and timely disclosure of information about contributions and expenditures.~~

~~(3) Candidates and campaigns benefit from a simple, easily understood reporting schedule without a proliferation requirements for special reports.~~

~~(4) A state filing schedule similar to that required in federal campaigns can reduce the complexity of filing requirements for some candidates and committees.~~

~~(b) It is the intent of the Legislature to enact legislation to establish a schedule with more frequent, but more regular, campaign statements that provide information when the public most needs it and when it is most useful for enforcement of the requirements of the Political Reform Act of 1974.~~

~~SEC. 2.~~

SECTION 1. Section 84107 of the Government Code is amended to read:

84107. Within 10 days of the designation of the numerical order of propositions appearing on the ballot, any committee which is primarily formed to support or oppose a ballot measure, shall, if supporting the measure, include the statement, “a committee for Proposition _____,” or, if opposing the measure, include the statement, “a committee against Proposition _____,” in any reference to the committee required by law.

~~SEC. 3.~~

SEC. 2. Section 84305.5 of the Government Code is amended to read:

84305.5. (a) No slate mailer organization or committee primarily formed to support or oppose one or more ballot measures shall send a slate mailer unless:

(1) The name, street address, and city of the slate mailer organization or committee primarily formed to support or oppose one or more ballot measures are shown on the outside of each piece of slate mail and on at least one of the inserts included with each piece of slate mail in no less than 8-point roman type which shall be in a color or print which contrasts with the background so as to be easily legible. A post office box may be stated in lieu of a street address if the street address of the slate mailer organization or the committee primarily formed to support or oppose one or more ballot measure is a matter of public record with the Secretary of State’s Political Reform Division.

(2) At the top or bottom of the front side or surface of at least one insert or at the top or bottom of one side or surface of a postcard or other self-mailer, there is a notice in at least 8-point roman boldface type, which shall be in a color or print which contrasts with the background so as to be easily legible, and in a printed or drawn box and set apart from any other printed matter.

The notice shall consist of the following statement:

NOTICE TO VOTERS

THIS DOCUMENT WAS PREPARED BY (name of slate mailer organization or committee primarily formed to support or oppose one or more ballot measures), NOT AN OFFICIAL POLITICAL PARTY ORGANIZATION. Appearance in this mailer does not necessarily imply endorsement of others appearing in this mailer, nor does it imply endorsement of, or opposition to, any issues set forth in this mailer. Each item designated by an * has been paid for and authorized by the candidate or ballot measure indicated. Each item designated by an @ has been paid for by a person other than the candidate or ballot measure.

(3) The name, street address, city, and Internet Web site address, if any, of the slate mailer organization or committee primarily formed to support or oppose one or more ballot measures as required by paragraph (1) and the notice required by paragraph (2) may appear on the same side or surface of an insert.

(4) Each candidate and each ballot measure that has paid to appear in the slate mailer is designated by an *. Each candidate and ballot measure whose appearance has been paid for by a third party is designated by an @. Any candidate or ballot measure that has not paid to appear in the slate mailer, and whose appearance has not been paid for by a third party, is not designated by an * or @.

The * and @ required by this subdivision shall be of the same type size, type style, color or contrast, and legibility as is used for the name of the candidate or the ballot measure name or number and position advocated to which the * or @ designation applies except that in no case shall the * and @ be required to be larger than 10-point boldface type. The designation shall immediately

1 follow the name of the candidate, or the name or number and
2 position advocated on the ballot measure where the designation
3 appears in the slate of candidates and measures. If there is no slate
4 listing, the designation shall appear at least once in at least 8-point
5 boldface type, immediately following the name of the candidate,
6 or the name or number and position advocated on the ballot
7 measure.

8 (5) The name of any candidate appearing in the slate mailer
9 who is a member of a political party differing from the political
10 party which the mailer appears by representation or indicia to
11 represent is accompanied, immediately below the name, by the
12 party designation of the candidate, in no less than 9-point roman
13 type which shall be in a color or print that contrasts with the
14 background so as to be easily legible. The designation shall not
15 be required in the case of candidates for nonpartisan office.

16 (6) If a slate mailer is produced entirely in a language other than
17 English, the notice to voters required pursuant to paragraph (2)
18 shall be produced in that language. If a substantial portion of a
19 slate mailer, as determined by the Commission by regulation, is
20 in a language other than English, the notice to voters required
21 pursuant to paragraph (2) shall be produced in both English and
22 the other language.

23 (b) For purposes of the designations required by paragraph (4)
24 of subdivision (a), the payment of any sum made reportable by
25 subdivision (c) of Section 84219 by or at the behest of a candidate
26 or committee, whose name or position appears in the mailer, to
27 the slate mailer organization or committee primarily formed to
28 support or oppose one or more ballot measures, shall constitute a
29 payment to appear, requiring the * designation. The payment shall
30 also be deemed to constitute authorization to appear in the mailer.

31 ~~SEC. 4.~~

32 *SEC. 3.* Section 84503.5 is added to the Government Code, to
33 read:

34 84503.5. (a) A television or video broadcast advertisement
35 that supports or opposes a candidate or solicits contributions in
36 support of that purpose shall, if the advertisement is authorized by
37 a candidate or an agent of the candidate, include a statement in
38 which the candidate identifies himself or herself and states that
39 the candidate has approved the message. The candidate statement
40 shall be made using an unobscured, full-screen video of the

1 candidate making the statement, or by using an unobscured,
2 full-screen, and clearly identifiable photographic image of the
3 candidate that is displayed during an audio voiceover of the
4 candidate reading the statement.

5 (b) An audio broadcast advertisement that supports or opposes
6 a candidate or solicits contributions in support of that purpose
7 shall, if the advertisement is authorized by a candidate or an agent
8 of the candidate, include an audio statement in which the candidate
9 identifies himself or herself and states that the candidate has
10 approved the message.

11 ~~SEC. 5.~~

12 *SEC. 4.* Section 84510 of the Government Code is amended
13 to read:

14 84510. (a) In addition to the remedies provided for in Chapter
15 11 (commencing with Section 91000) of this title, any person who
16 violates this article is liable in a civil or administrative action
17 brought by the commission or any person for a fine up to six times
18 the cost of the advertisement, including placement costs.

19 (b) The remedies provided in subdivision (a) shall also apply
20 to any person who purposely causes any other person to violate
21 any provision of this article or who aids and abets any other person
22 in a violation.

23 (c) If a judgment is entered against the defendant or defendants
24 in an action brought under this section, the plaintiff shall receive
25 50 percent of the amount recovered. The remaining 50 percent
26 shall be deposited in the General Fund of the state. In an action
27 brought by a local civil prosecutor, 50 percent shall be deposited
28 in the account of the agency bringing the action and 50 percent
29 shall be paid to the General Fund of the state.

30 ~~SEC. 6. Section 85701 of the Government Code is amended~~
31 ~~to read:~~

32 ~~85701. Any candidate or committee that receives a contribution~~
33 ~~in violation of Section 84301 shall pay to the General Fund of the~~
34 ~~state the amount of the contribution and pay to the Political~~
35 ~~Disclosure, Accountability, Transparency, and Access Fund a fine~~
36 ~~in the amount of 15 percent of the contribution.~~

37 ~~SEC. 7.~~

38 *SEC. 5.* Section 85704 of the Government Code is amended
39 to read:

1 85704. A person may not make any contribution to a committee
2 on the condition or with the agreement that it will be contributed
3 to any particular candidate or ballot measure committee unless the
4 contribution is fully disclosed pursuant to Section 84302. A person
5 who makes a contribution to a committee that violates this section
6 shall pay to the General Fund of the state the amount of the
7 contribution and pay to the Political Disclosure, Accountability,
8 Transparency, and Access Fund a fine in the amount of 15 percent
9 of the contribution.

10 ~~SEC. 8. Section 90003 of the Government Code is amended~~
11 ~~to read:~~

12 ~~90003. (a) In addition to the audits and investigations required~~
13 ~~by Section 90001, the Franchise Tax Board and the Commission~~
14 ~~may make investigations and audits with respect to any reports or~~
15 ~~statements required by Chapter 4 (commencing with Section~~
16 ~~84100), Chapter 5 (commencing with Section 85100), or Chapter~~
17 ~~6 (commencing with Section 86100).~~

18 ~~(b) (1) Nothing in this chapter shall be construed to prohibit~~
19 ~~the Commission from undertaking any audit authorized by this~~
20 ~~section prior to the date of the election or prior to the date upon~~
21 ~~which the report or statement is required to be filed. A candidate~~
22 ~~or committee shall, during the audit, make all relevant records~~
23 ~~available for immediate review by the Commission.~~

24 ~~(2) A person who is subject to an audit authorized by this section~~
25 ~~may contest the performance of the audit or an order issued by the~~
26 ~~Commission as a result of an audit by seeking a writ of mandate.~~
27 ~~Venue for the proceeding shall be exclusively in the County of~~
28 ~~Sacramento. The action shall be given priority over all other civil~~
29 ~~matters.~~

30 ~~(3) In addition to any other remedies available to the~~
31 ~~Commission, including injunctive relief pursuant to Section 91003,~~
32 ~~the Commission may seek an injunction pursuant to Title 7~~
33 ~~(commencing with Section 501) of Part 2 of the Code of Civil~~
34 ~~Procedure to compel a person who is subject to an audit authorized~~
35 ~~by this section to cooperate with the Commission in the~~
36 ~~performance of the audit or to compel compliance with an order~~
37 ~~of the Commission resulting from the audit. Notwithstanding any~~
38 ~~other law, an appeal of an injunction issued in favor of the~~
39 ~~Commission shall not result in a mandatory stay pending the~~
40 ~~resolution of the appeal. A stay of an injunction pending resolution~~

1 of the appeal may be ordered at the discretion of the court issuing
2 the injunction.

3 ~~SEC. 9.~~

4 *SEC. 6.* Section 91000 of the Government Code is amended
5 to read:

6 91000. (a) Any person who knowingly or willfully violates
7 any provision of this title is guilty of a misdemeanor.

8 (b) In addition to other penalties provided by law, a fine of up
9 to the greater of fifteen thousand dollars (\$15,000) or five times
10 the amount the person failed to report properly or unlawfully
11 contributed, expended, gave, or received may be imposed upon
12 conviction for each violation.

13 (c) Prosecution for violation of this title must be commenced
14 within four years after the date on which the violation occurred.

15 ~~SEC. 10.~~

16 *SEC. 7.* Section 91005 of the Government Code is amended
17 to read:

18 91005. (a) Any person who makes or receives a contribution,
19 gift, or expenditure in violation of Section 84300, 84304, 86203,
20 or 86204 is liable in a civil action brought by the civil prosecutor
21 or by a person residing within the jurisdiction for an amount up to
22 one thousand five hundred dollars (\$1,500) or five times the
23 amount of the unlawful contribution, gift, or expenditure,
24 whichever amount is greater.

25 (b) Any designated employee or public official specified in
26 Section 87200, except an elected state officer, who realizes an
27 economic benefit as a result of a violation of Section 87100 or of
28 a disqualification provision of a conflict of interest code is liable
29 in a civil action brought by the civil prosecutor or by a person
30 residing within the jurisdiction for an amount up to three times the
31 value of the benefit.

32 ~~SEC. 11.~~

33 *SEC. 8.* Section 91005.5 of the Government Code is amended
34 to read:

35 91005.5. Any person who violates any provision of this title,
36 except Sections 84305, 84307, and 89001, for which no specific
37 civil penalty is provided, shall be liable in a civil action brought
38 by the commission or the district attorney pursuant to subdivision
39 (b) of Section 91001, or the elected city attorney pursuant to

1 Section 91001.5, for an amount up to seven thousand dollars
2 (\$7,000) per violation.

3 No civil action alleging a violation of this title may be filed
4 against a person pursuant to this section if the criminal prosecutor
5 is maintaining a criminal action against that person pursuant to
6 Section 91000.

7 The provisions of this section shall be applicable only as to
8 violations occurring after the effective date of this section.

9 ~~SEC. 12. Section 91013 of the Government Code is amended~~
10 ~~to read:~~

11 ~~91013. (a) If a person files an original statement or report after~~
12 ~~the applicable deadline imposed by this title, he or she shall, in~~
13 ~~addition to any other penalties or remedies established by this title,~~
14 ~~be liable in the amount of thirty dollars (\$30) per day after the~~
15 ~~deadline until the statement or report is filed, to the officer with~~
16 ~~whom the statement or report is required to be filed. Liability need~~
17 ~~not be enforced by the filing officer if, on an impartial basis, he~~
18 ~~or she determines that the late filing was not willful and that~~
19 ~~enforcement of the liability will not further the purposes of this~~
20 ~~title, except that no liability shall be waived if a statement or report~~
21 ~~is not filed within 30 days for a statement of economic interest,~~
22 ~~other than a candidate's statement filed pursuant to Section 87201,~~
23 ~~five days for a campaign statement required to be filed 12 days~~
24 ~~before an election, and 10 days for all other statements or reports,~~
25 ~~after the filing officer has sent specific written notice of the filing~~
26 ~~requirement.~~

27 ~~(b) If a person files a copy of a statement or report after the~~
28 ~~applicable deadline imposed by this title, he or she shall, in addition~~
29 ~~to any other penalties or remedies established by this title, be liable~~
30 ~~in the amount of thirty dollars (\$30) per day, starting 10 days, or~~
31 ~~five days in the case of a campaign statement required to be filed~~
32 ~~12 days before an election, after the filing officer has sent specific~~
33 ~~written notice of the filing requirement and until the statement or~~
34 ~~report is filed.~~

35 ~~(c) The filing officer shall deposit any funds received under this~~
36 ~~section into the general fund of the jurisdiction of which he or she~~
37 ~~is an officer. No liability under this section shall exceed 150 percent~~
38 ~~of the cumulative amount stated in the late statement or report, or~~
39 ~~one thousand dollars (\$1,000), whichever is greater.~~

1 ~~SEC. 13.~~

2 *SEC. 9.* No reimbursement is required by this act pursuant to
3 Section 6 of Article XIII B of the California Constitution because
4 the only costs that may be incurred by a local agency or school
5 district will be incurred because this act creates a new crime or
6 infraction, eliminates a crime or infraction, or changes the penalty
7 for a crime or infraction, within the meaning of Section 17556 of
8 the Government Code, or changes the definition of a crime within
9 the meaning of Section 6 of Article XIII B of the California
10 Constitution.

11 ~~SEC. 14.~~

12 *SEC. 10.* The Legislature finds and declares that this bill
13 furthers the purposes of the Political Reform Act of 1974 within
14 the meaning of subdivision (a) of Section 81012 of the Government
15 Code.